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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/436,620	11/09/1999	BRUCE E. JOHNSON	SVX-P001	6904

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BOULDER PATENT SERVICE INC
1021 GAPTER ROAD
BOULDER, CO 803032924

EXAMINER

LEVITAN, DMITRY

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/436,620

Applicant(s)

JOHNSON ET AL.

Examiner

Dmitry Levitan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-126 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-126 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-50, drawn to Performance monitoring for fault avoidance, classified in class 714, subclass 47.
 - II. Claims 51-57, drawn to Check character detection technique, classified in class 714, subclass 807.
 - III. Claims 58-62, 63-65, 98-102, 119-121, 122, drawn to Test sequence at power-up or initialization, classified in class 714, subclass 36.
 - IV. Claims 66-69, drawn to Peripheral device component fault, classified in class 714, subclass 44.
 - V. Claims 70-71, drawn to Reliability enhancing component (fault injection), classified in class 714, subclass 41.
 - VI. Claims 72-91, 92-97, 108-110, drawn to Monitor recognize sequence of events, classified in class 714, subclass 39.
 - VII. Claims 103-107, 123-126, drawn to network configuration determination, classified in class 370, subclass 254.
 - VIII. Claims 111-114, drawn to Missing-bit/drop-out detection, classified in class 714, subclass 818.
 - IX. Claims 115-118, drawn to Forbidden combination or improper condition, classified in class 714, subclass 811.

2. Inventions of group I and groups II-IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group I has separate utility such as performance monitoring for fault avoidance, which does not necessarily requires the particulars Check character detection of group II, or Test sequence at power-up of group III, or Peripheral device component fault of group IV, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or network configuration determination of group VII, or Missing –bit/drop-out detection of group VIII or Forbidden combination or improper condition of group IX.

3. Inventions of group II and groups I, III-IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group II has separate utility such as Check character detection, which does not necessarily requires the particulars of performance monitoring for fault avoidance of group I, or Test sequence at power-up of group III, or Peripheral device component fault of group IV, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or network configuration determination of group VII, or Missing –bit/drop-out detection of group VIII or Forbidden combination or improper condition of group IX.

4. Inventions of group III and groups I, II, IV-IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group III has separate

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utility such as Test sequence at power-up, which does not necessarily requires the particulars of performance monitoring for fault avoidance of group I, Check character detection of group II, or Peripheral device component fault of group IV, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or network configuration determination of group VII, or Missing –bit/drop-out detection of group VIII or Forbidden combination or improper condition of group IX.

5. Inventions of group IV and groups I-III, V-IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group IV has separate utility such as Peripheral device component fault, which does not necessarily requires the particulars of performance monitoring for fault avoidance of group I, Check character detection of group II, or Test sequence at power-up of group III, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or network configuration determination of group VII, or Missing –bit/drop-out detection of group VIII or Forbidden combination or improper condition of group IX.

6. Inventions of group V and groups I-IV, VI-IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group V has separate utility such as Reliability enhancing component, which does not necessarily requires the particulars of performance monitoring for fault avoidance of group I, Check character detection of group II, or Test sequence at power-up of group III, or Peripheral device component fault of group IV, or Monitor recognizes sequence of events of group VI, or network configuration

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determination of group VII, or Missing –bit/drop-out detection of group VIII or Forbidden combination or improper condition of group IX.

7. Inventions of group VI and groups I-V, VII-IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group VI has separate utility such as Monitor recognizes sequence of events, which does not necessarily requires the particulars of performance monitoring for fault avoidance of group I, Check character detection of group II, or Test sequence at power-up of group III, or Peripheral device component fault of group IV, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or network configuration determination of group VII, or Missing –bit/drop-out detection of group VIII or Forbidden combination or improper condition of group IX.

8. Inventions of group VII and groups I-VI, VIII-IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group VII has separate utility such as network configuration determination, which does not necessarily requires the particulars performance monitoring for fault avoidance of group I, Check character detection of group II, or Test sequence at power-up of group III, or Peripheral device component fault of group IV, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or Missing –bit/drop-out detection of group VIII or Forbidden combination or improper condition of group IX.

9. Inventions of group VIII and groups I-VII, IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if

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they are shown to be separately usable. In the instant case, invention of group VIII has separate utility such as Missing –bit/drop-out detection, which does not necessarily requires the particulars of performance monitoring for fault avoidance of group I, Check character detection of group II, or Test sequence at power-up of group III, or Peripheral device component fault of group IV, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or network configuration determination of group VII, or Forbidden combination or improper condition of group IX.

10. Inventions of group IX and groups I-VIII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group IX has separate utility such as Forbidden combination or improper condition, which does not necessarily requires the particulars of performance monitoring for fault avoidance of group I, Check character detection of group II, or Test sequence at power-up of group III, or Peripheral device component fault of group IV, or Reliability enhancing component of group V, or Monitor recognizes sequence of events of group VI, or network configuration determination of group VII, or Missing –bit/drop-out detection of group VIII. See MPEP § 806.05(d).

11. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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12. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-IX, etc, restriction for examination purposes as indicated is proper.

13. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

14. A telephone call was made to Applicant Attorney Jay Beyer on 7/31/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

15. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

16. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Levitan whose telephone number is 703-305-4384. The examiner can normally be reached on 8:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.



Dmitry Levitan
Patent Examiner.
July 31, 2003



HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600